



Center for Community Change

April 8, 1999

Donald V. Hammond
Fiscal Assistant Secretary
US Department of the Treasury
Room 2112
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Sent by facsimile

RE: RIN 1505-AA74 Advance Notice of Proposed Rulemaking: Possible Regulation Regarding Access to Accounts at Financial Institutions Through Payment Service Providers

Dear Mr. Hammond:

These comments are submitted on behalf of the Center for Community Change ("CCC" or "the Center"). The Center is a national, not-for-profit organization that provides technical, research and other assistance to grass-roots community groups engaged in housing and community development efforts in low and moderate income and predominantly minority areas across the country. The Center's Neighborhood Revitalization Project assists groups that are seeking to increase the availability, accessibility and affordability of capital, credit and banking services in their communities. These groups are working to maintain bank branches in their communities, and to insure that their members and constituents have access to bank accounts that afford them a safe and secure way to manage their money, an opportunity to build savings, and a relationship with a mainstream financial institution that may be the basis for future borrowing for homeownership, small business development, or other goals. The implementation of the EFT '99 program will have a direct impact on the efforts of these groups in their local communities.

With this ANPR, the Treasury Department is seeking comments on whether or not to regulate "voluntary" accounts established by recipients of federal benefits in cases where those accounts involve certain arrangements between insured depository institutions and nondepository payment service providers, such as check cashers. The Center believes that Treasury must regulate these accounts.

Under the Debt Collection Improvement Act of 1996, the Department has an obligation to ensure that individuals required by the Act to receive their payments electronically have an account at a financial institution, with access at a reasonable cost and with the same protections as other account holders at the same institution. The bank/payment service provider arrangements that have given rise to this ANPR clearly violate these requirements.

The ANPR itself describes the common features of these arrangements. Comments

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submitted by the National Consumer Law Center and others, as well as numerous press reports, provide evidence that such arrangements are widespread. Under these arrangements, the recipient's benefit is direct deposited into an account at an insured depository institution. The recipient, however, generally only has access to the funds through the check casher. Most of these arrangements require the recipient to cash their entire check, so they do not have access to the financial institution as a safe place to store funds. They cannot use the bank's teller windows for withdrawals, and may not be able to use the bank's ATM machines, either. They do not have an account in the institution that provides deposit insurance or other consumer protections. Once the electronic transfer has been made, for all practical purposes, as far as the insured depository institution is concerned, the recipient does not exist. Clearly, such arrangements do not meet the statutory requirements to provide accounts that have the same access and consumer protections as other account holders at the same institution.

It is something of an understatement to say that such arrangements do not provide access to an account at a reasonable cost, the third part of Treasury's statutory mandate. The benefit recipient may pay one or more fees to establish and maintain the account, another fee to have a check issued, a third fee to have the check cashed, and then additional fees to buy money orders, make transfers, or purchase other services. The combined total of these fees can be exorbitant. Under no circumstances can they be deemed reasonable. Perhaps the most perverse aspect of these arrangements is that they allow the cost savings, convenience and security of direct deposit to be enjoyed by the government, the insured depository institution, and the check casher, while actually increasing the cost to the benefit recipient, who no longer simply pays to have a check cashed, but also pays for an exploitative account arrangement as well. Treasury must not allow such arrangements to continue.

Another goal that Treasury has set for the EFT '99 program is to bring the estimated 10 million recipients of federal benefits who do not currently have bank accounts into the financial services mainstream. The Center fully supports this goal. However, the arrangements that are the subject of this ANPR do not help Treasury meet this goal. They do not constitute an account relationship with an insured depository institution: they do not help the recipient establish a credit record, they do not familiarize the recipient with the workings of a bank, they do not expose the recipient to the other banking services and products that may be available from the bank, they do not afford the recipient a safe place to store money or manage financial transactions, and they do not provide the recipient with deposit insurance and the other consumer protections that are the benefits of an account relationship with an insured depository. Instead of bringing recipients into the financial services mainstream, these arrangements relegate the account holders to the fringe banking system, where they pay inflated prices for inferior services.

Further, the ability of insured depositories to participate in this type of arrangement with check cashers and other payment service providers may create a disincentive for those same institutions to offer ETA accounts or other accounts that might be attractive to federal benefit recipients. These arrangements allow banks to profit from direct deposit for benefit recipients without actually having to market a product on a retail level or deal with the individual customers

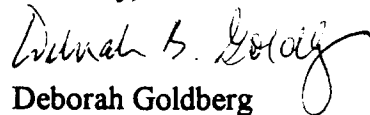
involved. They can claim that they are serving low and moderate income consumers without having any contact or direct business relationship with those consumers.

While one might hope that the Community Reinvestment Act (CRA) would provide an incentive for insured depositories to offer more attractive alternatives, that is not likely to be the case. Under the new CRA regulations, with the emphasis on a more objective assessment of performance, examiners do not make subjective judgments about the quality of services provided. Just as FHA loans are given the same weight as conventional mortgages and sub-prime loans are given the same weight as prime loans, arrangements with check cashers would likely be given the same weight as ETA or lifeline accounts available directly through the bank. If Treasury is to shut down these arrangements, as its statutory mandate requires, it will have to take direct action and promulgate regulations. We urge you to take this step.

Finally, we want to reiterate a point that we have made in previous comments on other elements of EFT '99. If the ETA accounts that Treasury provides are to serve as a realistic alternative to check cashers and the types of arrangements described in this ANPR, they will have to meet three criteria. They must be affordable, they must be accessible (which means, among other things, limiting network charges for ATM use and allowing people free access to teller services), and they must have the necessary constellation of features to allow people to conduct their financial business. Otherwise recipients will simply opt out of the electronic transfer system altogether, and the opportunity that EFT '99 represents to bring people in the financial services mainstream will be lost.

Thank you for your consideration of our comments.

Sincerely,



Deborah Goldberg
Neighborhood Revitalization Project